

ASSEMBLY BILL

No. 2247

Introduced by Assembly Member La Suer

February 22, 2006

An act to amend Section 8617 of the Business and Professions Code, relating to structural pest control.

LEGISLATIVE COUNSEL'S DIGEST

AB 2247, as introduced, La Suer. Structural pest control.

Under existing law, the Structural Pest Control Board licenses and regulates persons engaged in structural pest control.

Existing law authorizes the board or county agricultural commissioners to suspend, fine, or direct a structural pest control licensee to attend and pass a board-approved course of instruction when a licensee violates laws and regulations regarding pesticide use. Existing law requires the licensee to be given notice of the proposed action for a violation.

This bill would make a nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8617 of the Business and Professions
- 2 Code is amended to read:
- 3 8617. (a) The board or county agricultural commissioners,
- 4 when acting pursuant to Section 8616.4, may suspend the right of
- 5 a structural pest control licensee or registered company to work
- 6 in a county for up to three working days or, for a licensee,
- 7 registered company, or an unlicensed individual acting as a

1 licensee, may levy an administrative fine up to one thousand
2 dollars (\$1,000) or direct the licensee to attend and pass a
3 board-approved course of instruction at a cost not to exceed the
4 administrative fine, or both, for each violation of this chapter, or
5 Chapter 14.5 (*commencing with Section 8698*), or any regulations
6 adopted pursuant to these chapters, or Chapter 2 (*commencing*
7 *with Section 12751*), Chapter 3 (*commencing with Section*
8 *14001*), Chapter 3.5 (*commencing with Section 14101*), or
9 Chapter 7 (*commencing with Section 15201*) of Division 7 of the
10 Food and Agricultural Code, or any regulations adopted pursuant
11 to those chapters, relating to pesticides. However, any violation
12 determined by the board or the commissioner to be a serious
13 violation, as defined in Section 1922 of Title 16 of the California
14 Code of Regulations, shall be subject to a fine of not more than
15 five thousand dollars (\$5,000) for each violation. Fines collected
16 shall be paid to the Education and Enforcement Account in the
17 Structural Pest Control Education and Enforcement Fund.
18 Suspension may include all or part of the registered company's
19 business within the county based on the nature of the violation,
20 but shall, whenever possible, be restricted to that portion of a
21 registered company's business in a county that was in violation.

22 (b) A licensee who passes a course pursuant to this section
23 shall not be awarded continuing education credit for that course.

24 (c) Before a suspension action is taken, a fine levied, or a
25 licensee is required to attend and pass a board-approved course
26 of instruction, the person charged with the violation shall be
27 provided a written notice of the proposed action, including the
28 nature of the violation, the amount of the proposed fine or
29 suspension, or the requirement to attend and pass a
30 board-approved course of instruction. The notice of proposed
31 action shall inform the person charged with the violation that if
32 he or she desires a hearing before the commissioner issuing the
33 proposed action to contest the finding of a violation, that hearing
34 shall be requested by written notice to the commissioner within
35 20 days of the date of receipt of the written notice of proposed
36 action.

37 A notice of the proposed action that is sent by certified mail to
38 the last known address of the person charged shall be considered
39 received even if delivery is refused or the notice is not accepted
40 at that address.

1 If a hearing is requested, notice of the time and place of the
2 hearing shall be given at least 10 days before the date set for the
3 hearing. At the hearing, the person shall be given an opportunity
4 to review the commissioner's evidence and a right to present
5 evidence on his or her own behalf. If a hearing is not requested
6 within the prescribed time, the commissioner may take the action
7 proposed without a hearing.

8 (d) If the person upon whom the commissioner imposed a fine
9 or suspension or required attendance at a board-approved course
10 of instruction requested and appeared at a hearing before the
11 commissioner, the person may appeal the commissioner's
12 decision to the Disciplinary Review Committee and shall be
13 subject to the procedures in Section 8662.

14 (e) If a suspension or fine is ordered, it may not take effect
15 until 20 days after the date of the commissioner's decision if no
16 appeal is filed. If an appeal pursuant to Section 8662 is filed, the
17 commissioner's order shall be stayed until 30 days after the
18 Disciplinary Review Committee has ruled on the appeal.

19 (f) Failure of a licensee or registered company to pay a fine
20 within 30 days of the date of assessment or to comply with the
21 order of suspension, unless the citation is being appealed, may
22 result in disciplinary action being taken by the board.

23 Where a citation containing a fine is issued to a licensee and it
24 is not contested or the time to appeal the citation has expired and
25 the fine is not paid, the full amount of the assessed fine shall be
26 added to the fee for renewal of that license. A license shall not be
27 renewed without payment of the renewal fee and fine.

28 Where a citation containing a fine is issued to a registered
29 company and it is not contested or the time to appeal the citation
30 has expired and the fine is not paid, the board shall not sell to the
31 registered company any inspection stamps, notice of completion
32 stamps, or pesticide use stamps until the assessed fine has been
33 paid.

34 Where a citation containing the requirement that a licensee
35 attend and pass a board-approved course of instruction is not
36 contested or the time to appeal the citation has expired and the
37 licensee has not attended and passed the required board-approved
38 course of instruction, the licensee's license shall not be renewed
39 without proof of attendance and passage of the required
40 board-approved course of instruction.

- 1 (g) Once final action pursuant to this section is taken, no other
2 administrative or civil action may be taken by any state
3 governmental agency for the same violation. However, action
4 taken pursuant to this section may be used by the board as
5 evidence of prior discipline, and multiple local actions may be
6 the basis for statewide disciplinary action by the board pursuant
7 to Section 8620. A certified copy of the order of suspension or
8 fine issued pursuant to this section or Section 8662 shall
9 constitute conclusive evidence of the occurrence of the violation.
- 10 (h) Where the board is the party issuing the notice of proposed
11 action to suspend or impose a fine pursuant to subdivision (a) of
12 this section, “commissioner” as used in subdivisions (c), (d), and
13 (e) includes the board’s registrar.